

Appln No. 09/440,148

Amdt date December 22, 2003

Reply to Office action of September 24, 2003

REMARKS/ARGUMENTS

Claims 1-43 were pending in the application. In the Office action mailed September 24, 2003 claims 12, 13, 25, 27 and 37-39 were allowed. Claims 9-11, 23, 24, 26, 33, and 43 were objected to as depending upon rejected mother claims. Claims 1-8, 14-22, 28-32, 34-36 and 40-42 are rejected. Applicants thank the Examiner for attention to the application.

Claims 9, 23, 33, and 43 are now amended. Claims 44 and 45 are added. Accordingly, claims 1-45 remain in the application.

Regarding the objected to claims, claims 9, 23, 33, and 43 are now placed in independent form, containing the limitations of their respective base claim and intervening claims. Claims 10 and 11 now have claim 9 as their base claim, and claims 24 and 26 now have claim 23 as their base claim. Accordingly, the objected to claims 9-11, 23, 24, 26, 33, and 43 are now believed allowable.

A rejection of claim 8 will be addressed prior to discussing the rejected independent claims and the newly added claims.

Claim 8 includes, inter alia, "...an entry is deleted from memory when the at least one connection for the entry is inactive when the predetermined measurement time interval expires."

The Office action states, on page 2, that "regarding claim 8, a more comprehensive rejection has been made and is stated in the action below." The Office action further states, on page 5, "regarding claim 7, 8, and 30, de le Salle teaches: ...the process continues to account for updating probe objects 52 in the

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database for routing information stemming from the router configuration, such that fresh objects are modified and given a time trigger for keeping accurate topology information (Col 13, lines 45-55)." The cited portion of de la Salle indicates that

"one of the operations, intended to keep the data current, is an update database routine 140. The update db routine 140 may be triggered manually, be subject to a time trigger, or may be a continual process, at the choice of the programmer and user. This process utilizes the sampling of assembly 38 and the analysis of assembly 40 to provide fresh probe objects 52 for modifying existing db objects 106 and creating new db objects 106 when there are changes in the topology or contact of network 12. Basically, the update database routine 140 involves repetition of the build db routine 96 and replacing older versions of db objects 106 with current versions."

(de la Salle, col. 13, lines 43-55). It is respectfully submitted that the cited portion of de la Salle discusses providing fresh probe objects (de la Salle, col. 13, line 49) modifying existing db objects (de la Salle, col. 13, line 50), and creating new db objects (de la Salle, col. 13, lines 50-51). Accordingly, it is believed that claim 8 is allowable.

Newly added claim 44 is for a method of providing network performance metrics by a plurality of servers in an intranet being accessible only by authorized users. Claim 44 has some similarities to claim 33, previously indicated as allowable. Claim 44 is believed to be allowable in at least for the same

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reasons as for claim 33, which was indicated as allowable in view of applicant's arguments on page 20 in paper number 13.

Newly added claim 45 contains similarities to previously indicated as allowable claim 43. Newly added claim 45 is to a measurement infra structure performed by servers inside an intranet. The intranet is a network accessible only to authorized users. Newly added claim 45 is believed to be allowable for at least four reasons indicated in view of applicant's arguments written on page 20 of paper number 13.

Regarding independent claims 1, 14, 17, 28 and 34, claim 1 recites a network interface device configured to non-intrusively measure network traffic transferred in and out of an intranet for at least one connection. Claim 14 also recites that a metrics generator is configured to non-intrusively measure network traffic being transferred in and out of the at least one server inside the intranet and to generate performance metrics from the network traffic measured. Claim 17 recites that a first metrics server inside the intranet is configured to non-intrusively measure network traffic being transferred in and out of the intranet and to generate performance metrics based on the network traffic measured. Claim 28 recites non-intrusively measuring network traffic between at least one server in an intranet and at least one client outside the intranet. Claim 34 also recites non-intrusively measuring network traffic for at least one connection, the at least one connection being a logical path between at least one server inside an intranet and at least one client outside the intranet.

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De la Salle, describes, in col. 6, lines 6-11, in reference to FIG. 1, that a computer network 12 is shown to be an overall array which includes a number of discretely identifiable branch arrays, referred to for simplicity as LAN 14, although it is recognized that each of the branches may not fit the classic definition of a local area network, since each does not include a server component."

The specification, on page 4, line 32 to page 5, line 20, describes that the intranet is a LAN or WAN specifically configured for a specific business structure organization such as a corporation and that the complexity of managing an intranet is often reduced due to limited authorized access and common administrative protocols. In view of the specification, the intranet is at least different from or something more than merely just a group of computers networked together.

As such, de la Salle does not describe or suggest an intranet. Thus, de la Salle also does not describe or suggest measuring network traffic transferred in and out of the intranet or in and out of a server or metrics server in the intranet, or measuring network traffic between a server inside the intranet and a client outside the intranet, as recited in claims 1, 14, 17, 28 and 34.

Dobbins also describes, in col. 13, lines 41-60 in reference to FIG. 4, an "illustration of a networking chassis adapted to incorporate the SFPS technology. As shown, the chassis 30 is a mechanical enclosure 31 which is used to house a plurality of networking modules 32, which may include repeater modules, bridge modules, router modules, terminal servers, file

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servers, etc. The chassis or hub in a mostly connection of diverse LAN segments, including internet, token ring and FDDI segments, as well as to wide area networks (WANS)." As such, as noted in reference to de la Salle, Dobbins also does not describe or suggest an intranet and thus does not describe or suggest measuring network traffic transferred in and out of the intranet or in and out of a server or metrics server in the intranet, or measuring network traffic between a server inside the intranet and a client outside the intranet, as recited in claims 1, 14, 17, 28 and 34. Accordingly, claims 1, 14, 17, 28 and 34 are believed to be patentable.

Therefore, since claims 2-8 depend from claim 1 and contain additional limitations that are patentably distinguishable over the references of record, claims 2-8 are also believed to be patentable. Also, since claims 15-16 depend from claim 14 and contain additional limitations that are patentably distinguishable over the references of record, claims 15-16 are also believed to be patentable. Furthermore, since claims 18-19 depend from claim 17 and contain additional limitations that are patentably distinguishable over the references of record, claims 18-19 are believed to be patentable. Moreover, since claims 29-32 depend from claim 28 and contain additional limitations that are patentably distinguishable over the references of record, claims 29-32 are believed to be patentable. Also, since claims 35-36 depend from claim 34 and contain additional limitations that are patentably distinguishable over the references of record, claims 35-36 are believed to be patentable.

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Accordingly, the claims in the application are now believed to be allowable, and allowance of same is respectfully requested.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By

  
Daniel M. Cavanagh

Reg. No. 41,661

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